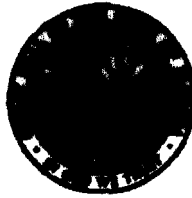


State of Florida

Commissioners:

J. TERRY DEASON, CHAIRMAN  
SUSAN F. CLARK  
JULIA L. JOHNSON  
DIANE K. KIESLING  
JOE GARCIA



General Counsel  
ROBERT D. VANDIVER  
(904) 488-7463

**Public Service Commission**

December 20, 1994

VIA FEDERAL EXPRESS

William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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Re: CC Docket No. 94-129 - Policies and Rules Concerning Unauthorized  
Changes of Consumers' Long Distance Carriers

Dear Secretary Caton:

Enclosed please find an original and ten copies of the Florida Public Service Commission's Comments in the above docket. Please date-stamp and return one copy to us in the enclosed self-addressed envelope.

In addition, we are filing two copies with the Formal Complaints Branch, Enforcement Division, of the Common Carrier Bureau. In addition, we are filing one copy with the Commission's copy contractor, International Transcription Services.

Sincerely,

A handwritten signature in cursive script, reading "Cynthia B. Miller".

Cynthia B. Miller  
Associate General Counsel

CBM/jb  
Enclosure

cc: Formal Complaints Branch  
International Transcription Services

No. of Copies rec'd  
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UNITED STATES OF AMERICA  
FEDERAL COMMUNICATIONS COMMISSION

In the matter of:

Policies and Rules Concerning  
Unauthorized Changes of Consumers'  
Long Distance Carriers

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CC Docket No. 94-129

COMMENTS OF THE  
FLORIDA PUBLIC SERVICE COMMISSION

The Florida Public Service Commission (FPSC) through its undersigned attorney, hereby files its comments in the above-captioned request for comments, released November 10, 1994. In light of complaints of unauthorized changes of consumers' long distance carriers received by this agency, the FPSC supports the FCC's comprehensive review of the rules applicable to the improper changes known as "slamming."

COMPLAINT LEVELS

An analysis of recent complaints and trends suggests that the current rules of the FCC and FPSC need revision to address a number of deceptive practices. Slamming complaints received by the FPSC have tripled from 330 in 1991 to 938 through November of this year. Slamming is the number one telecommunications complaint received by the FPSC.

REVISIONS TO CONSIDER

LETTERS OF AGENCY (LOA): The combining of LOAs with sweepstakes and other inducements has been a source of confusion identified in many complaints to the FPSC. We are therefore considering amendments to FPSC rules designed to separate LOAs from other promotional or

inducement materials and to ensure that LOAs do no more than authorize an IXC to initiate a primary interexchange carrier (PIC) change. Attached are amendments being considered and we are awaiting comments from parties on these amendments. (Attachment A) Thus, we support the FCC also considering such amendments.

SPECIFYING RESPONSIBILITY FOR RULE COMPLIANCE: Both the FCC and the FPSC specify the conditions in their current respective rules that must be met to implement a PIC change. One of four requirements must be met: 1) written authorization from the consumer; 2) electronic authorization by use of an 800 number; 3) consumer's oral authorization verified by independent third party; or, 4) An IXC must wait 14 days to initiate a PIC change after mailing an information package with prepaid returnable postcard to ensure the customer has ample time to cancel or confirm the order before the PIC change is implemented.

In many complaints received by this agency none of the four requirements have been met and no one accepts responsibility for the failure to comply. Thus, adopting additional rules without clearly defining who is responsible for meeting them may serve little purpose. For instance, in the case of downstream resellers of the services of an underlying facilities-based carrier, most often it is the underlying facilities-based carrier that changes the PIC with the LEC, or changes the subscriber's billing code within the underlying facilities-based carrier's own billing system

to effectuate the change of a subscriber's carrier. Based on our investigation, such changes often originate with resellers several levels removed that have no knowledge of the requirements and no readily apparent incentive to comply with them.

With the downstream reseller's ability to easily enter and exit the market, the FPSC frequently has no record of the reseller's name and address. Thus the reseller may be unaware of our rules, or those of the FCC. Nevertheless, the order to change a PIC is passed on through the underlying facilities-based carrier to the LEC, in many cases without question. In such cases the underlying facilities-based carrier frequently denies any responsibility for the PIC change even though the change could not or would not have been made without the underlying facilities-based carrier's assistance. Moreover, in many cases the underlying facilities-based carrier, or a division of the underlying facilities-based carrier, often bills for the downstream reseller without regard to whether the requirements for PIC changes have been met. Thus we believe it is appropriate for the FCC to consider whether the underlying facilities-based carrier should bear some responsibility when none of the conditions required to implement a PIC change has been met. If assigning responsibility to the underlying facilities-based carrier is appropriate then the responsibility should apply whether the underlying facilities-based carrier changes a subscriber's PIC with the LEC or changes a

subscriber's carrier within the underlying facilities-based carrier's own billing system.

CONCLUSION

Because of increased slamming complaint levels, the FPSC believes it is appropriate to amend certain PIC change requirements to reduce slamming. We support a requirement for a single purpose LOA and we believe the FCC should also consider action to clearly define the party responsible when PIC change requirements have not been satisfied as described herein.

Respectfully submitted,



CYNTHIA B. MILLER  
Associate General Counsel

FLORIDA PUBLIC SERVICE COMMISSION  
101 East Gaines Street  
Tallahassee, Florida 32399  
(904) 488-7464

DATED: December 21st 1994

## 25-4.118 Interexchange Carrier Selection

(1) The primary interexchange company (PIC) of a customer shall not be changed without the customer's authorization. A local exchange company (LEC) shall accept PIC change requests by telephone call or letter directly from its customers.

(2) A LEC shall also accept PIC change requests from a certificated interexchange company (IXC) acting on behalf of the customer. A certified IXC that will be billing customers in its name may submit a PIC change request, other than a customer-initiated PIC change, directly or through another IXC, to a LEC only if it has certified to the LEC that at least one of the following actions has occurred prior to the PIC change request:

(a) the IXC has on hand a ballot or letter from the customer requesting such change; or

(b) the customer initiates a call to an automated 800 number and through a sequence of prompts, confirms the customer's requested change; or

(c) the customer's requested change is verified through a qualified, independent firm which is unaffiliated with any IXC; or

(d) the IXC has received a customer request to change his PIC and has responded within three days by mailing of an information package that includes a prepaid, returnable postcard and an additional 14 days have past before the IXC submits the PIC change to the LEC. The information package should contain any information required by Rule 25-4.118(3).

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 (3)(a) The ballot or letter submitted to the interexchange  
2 company requesting a PIC change shall include, but not be limited  
3 to, the following information (each shall be separately stated):

4 1. Customer name, phone/account number and address;

5 2. Company and the service to which the customer wishes to  
6 subscribe;

7 3. Statement that the person requesting the change is  
8 authorized to request the PIC change; and

9 4. Customer signature.

10 (b) Every letter of agency, ballot or document by means of  
11 which a customer can request a PIC change shall be used solely for  
12 that purpose. Every such letter of agency, ballot or document  
13 shall identify the telecommunications company to which the service  
14 is being changed. The page of the letter or ballot containing the  
15 customer's signature shall contain the following statement directly  
16 above the customer's signature in bold face type at least twice the  
17 size of any other text on the page: "I understand that my  
18 signature on this form will result in my interLATA long distance  
19 telecommunications service being provided by (insert here the name  
20 of FPSC certificated interexchange company)."

21 (c) If a PIC change request results from either a customer  
22 initiated call or a request verified by an independent third party,  
23 the information set forth in (3)(a)1.-3. above shall be obtained  
24 from the customer.

25 (d) Ballots or letters will be maintained by the IXC for a

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1 period of one year.

2 (4) Customer requests for other services, such as travel card  
3 service, do not constitute a change in PIC.

4 (5) Charges for unauthorized PIC changes and higher usage  
5 rates, if any, over the rates of the preferred company shall be  
6 credited to the customer by the IXC responsible for the error  
7 within 45 days of notification. Upon notice from the customer of  
8 an unauthorized PIC change, the LEC shall change the customer back  
9 to the prior IXC, or another of the customer's choice. The change  
10 must be made within 24 hours excepting Saturday, Sunday and  
11 holidays, in which case the change shall be made by the end of the  
12 next business day. In the case where the customer disputes the  
13 ballot or letter, the IXC appearing on the ballot/letter will be  
14 responsible for any charges incurred to change the PIC of the  
15 customer.

16 (6) The IXC shall provide the following disclosures when  
17 soliciting a change in service from a customer:

18 (a) Identification of the IXC;

19 (b) That the purpose of visit or call is to solicit a change  
20 of the PIC of the customer;

21 (c) That the PIC can not be changed unless the customer  
22 authorizes the change; and

23 (d) Any additional information as referenced in Rule 25-  
24 24.490(4).

25 Specific Authority 350.127(2), F.S.

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1 | Law Implemented 364.01, 364.19, 364.285, F.S.

2 | History: 3/4/92.

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